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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,474	09/30/2003	Albert A. Panyard	PAL/10002/16	6003

7590

11/02/2006

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EXAMINER

LEE, EDMUND H

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,474

Applicant(s)

PANYARD, ALBERT A.

Examiner

EDMUND H. LEE

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1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/24/06 has been entered.

2. Claims 21-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "curing said tubing" (cl 21, lns 11-12) is indefinite because it is unclear whether or not the tubing is the same tubing that is pressurized. If the tubing in the step of curing is pressurized, it should be clearly and positively recited. It is suggested that the phrase --the pressurized-- replace the word "said" in the above phrase.

Correction is required.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1366631 in view of Rittenhouse (USPN 67019027) and JP 55-61427. In regard to claim 21, GB 1366631 teach the basic claimed process including a method of making a heat transfer device (pg 1, lns 42-44 and 83-87; pg 2, lns 26-62; fig 1); providing a length of silicone tubing (pg 1, lns 42-44 and 83-87; pg 2, lns 26-62; fig 1); providing a mold (pg 1, lns 42-44 and 83-87; pg 2, lns 26-62; fig 1)--as a note, it is inherent that the tubing is arranged on a forming surface/mold; disposing and retaining the length of tubing on a forming surface of the mold so that a first portion and second portion of the length of tubing are disposed in contact, in a side-by-side relationship thereupon (pg 1, lns 42-44 and 83-87; pg 2, lns 26-62; fig 1); and cementing the shaped tubing while in the desired shape such that contacting surfaces of the adjacent sections are bonded together (pg 1, lns 42-44 and 83-87; pg 2, lns 26-62; fig 1). GB 1366631, however, does not teach providing a length of partially cured silicone tubing; pressurizing the tubing so as to bias the first and second portions into the side-by-side contact with one another; and curing the tubing as to cause further crosslinking thereof. Rittenhouse teaches the well-known understanding of bonding partially cured tubing together by curing produces a bond of increased mechanical integrity of the connection (col 4, lns 47-56). JP 55-61427 teaches an adhering method for producing medical instruments (abstract; figs 1-4); providing tubes of partially cured material (abstract; figs 1-4); matching the tubes for close adhesion (abstract; figs 1-4); and adhering the tubes by pressurizing the tubes and heating the tubes to cure (abstract; figs 1-4). GB 1366631, Rittenhouse, and JP 55-61427 are combinable because they are analogous with

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respect to adhering tubes to form a bonded product. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the above teaching of Rittenhouse and JP 55-61427 in the process of GB 1366631 in order to increase the mechanical integrity of the bond between the tubing of GB 1366631. In regard to claim 22, the use of a specific apparatus is mere obvious matter of choice dependent on the desired final product and of little patentable consequence to the claimed process since it is not a manipulative feature or step of the claimed process. Further, molds corresponding to a portion of a patient's body are well-known in the molding art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a mold having the claimed forming surface in the process of GB 1366631 in order to form a product having greater diversity. In regard to claim 23, gas is well-known in the molding art as a pressurizing fluid. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use gas to pressurize the tubing of GB 1366631 (modified) in order to effectively and efficiently pressurize the tubing of GB 1366631. In regard to claim 24, curing parameter such as temperature is well-known in the molding art as an important molding parameter and the desired temperature would have been obviously and readily determined through routine experimentation by one having ordinary skill in the art at the time the invention was made. Further, the claimed temperature is generally well-known in the molding art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to cure the tubing of GB 1366631 (modified) at the claimed temperature in order to produce a good adhesion.

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5. Applicant's arguments with respect to claims 21-24 have been considered but are moot in view of the new ground(s) of rejection.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 4277432 teaches bonding a partially cured silicone tubing to a preform by curing. USPN 4239245 teaches using a mold to achieve a desired shape of a partially cured preform; and curing the partially cured preform while in the mold and under pressure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571.272.1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDMUND H. LEE
Primary Examiner
Art Unit 1732

EHL


10/29/06